IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

Bail Appl..No. 249 of 2007()

CR 29/06 of Mattannur Excise Range

.....

: PETITIONER/ACCUSED NO.3

V.C.GEORGE, S/O. CHERIAN, AGED 44 YEARS,
RESIDING AT VELLAPPANIYIL HOUSE,
KEEZHAPALLY P.O., ARALAM AMSOM, ARALAM DESOM,
THALAPPALLY TALUK.

BY ADV. SRI.RAINGE KODUVATH
SRI.VIJU ABRAHAM

RESPONDENT: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
ASSISTANT EXCISE INSPECTOR, MATTANNOOR EXCISE
RANGE, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SHRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.Ramkumar, J.

==========

B.A.No. 249 of 2007

==========

Dated this the 23rd day of January, 2007.

ORDER

Petitioner, who is the third accused in CR No.29 of 2006 of Mattannur Excise Range for offences punishable under Section 55(a), (h) and (g) of Abkari Act for allegedly distilling wash and who along with other accused were allegedly found in joint possession of 30 litres of wash and distilling apparatus on 23.12.2006, seeks anticipatory bail.

2. The learned Public Prosecutor opposed the application.

3. The petitioner would contend that he is a man of great social status and was on the day in question suffering from jaundice and undergoing treatment in Amala Hospital and School of Nursing, Iritty.

4. It is too early to accept the petitioner's contention considering the medical records produced by him. Anticipatory bail cannot be granted in a case of this nature. There is no reason why the petitioner should not surrender before the Magistrate concerned and file an application for regular bail and convince the Magistrate. Accordingly, if the petitioner surrenders before the Magistrate and files an application for regular bail within two weeks from today, the same

shall be considered and disposed of preferably on the same date on which it is filed after examining the contentions of the petitioner that he was suffering from jaundice and undergoing treatment in Amala Hospital and School of Nursing, Iritty. It is needless to say that if the Magistrate is convinced prima facie that the petitioner could not have been implicated in this case, then merely because the offence is a grave offence, that by itself does not take away the power of the Magistrate to grant bail (vide **Sukumari** v. **State of Kerala** – 2001(1) K.L.T. 22).

With this direction, this application is disposed of.

V.Ramkumar,
Judge.

ess 23/1